

PROP 1 Basics - The English Version

Name: Michigan Regulation and Taxation of Marihuana Act

Effective Date: December 6, 2018 (assuming election certified on November 26)

Requires $\frac{3}{4}$ vote of both Michigan house and senate to amend or repeal.

This Act legalizes recreational use and possession of marihuana for adults over 21. Marihuana is still federally illegal, and this Act does not eliminate the Medical Marihuana Facilities Licensing Act. It actually makes MMFLA licenses more valuable, because it gives MMFLA licensees priority for holding recreational licenses. It also fully legalizes industrial hemp production and sale.

It does not allow current MMFLA licensees to engage in any recreational conduct, or to sell marihuana to any person other than a registered licensed patient. Private citizens (non-businesses) can use, cultivate, possess and exchange marihuana, but cannot sell it or use it in public.

Some notable provisions:

Private / Non-Business

- You can start growing and using marihuana as a private citizen in your own home as soon as the Act is effective.
- You cannot use butane to extract THC from marihuana within the curtilage of your residence. The curtilage is the area immediately surrounding your house and it differs by municipality, but it is usually the area between 50 and 100 feet out from your home in every direction.
- You cannot grow marihuana plants within view from a public place. That means that if you are in a private subdivision, you can grow your plants outdoors as long as they are in a locked, enclosed area.
- You can store an unlimited amount of marihuana in your home, including a maximum of 10 ounces you did not grow at home, as long as it's locked up. *This is a plain reading of the language of the Act which may be interpreted a different way by others. See notes below.

Business

- Allows ballot-initiated ordinances for municipal opt-in.
- Requires a competitive bid process at the municipal level where state licenses exceed municipal permits.

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- Municipalities can issue temporary concessionaire sales permits for special events.
- No licensing board. LARA has to administer and issue the licenses itself. LARA:
 - Cannot limit the number of licenses
 - Must approve or reject licenses within 90 days
 - Cannot prohibit the co-location of medical and recreational facilities
 - Cannot prohibit the co-location of grows, processors and retailers
 - Cannot deny a license to a person based on a prior conviction solely for a marihuana-related offense as long as it did not involve distribution to a minor.
- All license-holders can transport up to 15 ounces or 60 grams of concentrate at a time, presumably to allow for salespeople. There are no private transportation restrictions in this Act, but we recommend continued transport in a container in your trunk / cab.
- The 280(e) restriction on deductions has been nullified for state tax purposes. In other words, recreational marihuana businesses can deduct all expenses any other business can on their state tax returns.

Q: When can I start selling marihuana?

A: You can't. You can transfer a small amount (2.5 oz) of marihuana without remuneration (anything of value).

Q: What if I want to start a non-profit where people can give donations.

A: Donations are still remuneration under the law. Also, the IRS will not certify a tax exemption for a business engaging in the illegal drug trade. So, no.

Q: What about a private club?

A: Private clubs have been legal since 2008, as long as the landowner authorizes the use a possession of marihuana on the property, and no marihuana is sold or transferred for remuneration.

Q: How do I get a license to sell marihuana?

A: Applications for licenses will not be available until December 2019. There will be: retailers (dispensaries), safety compliance, secure transport, processors, growers (100, 500 and 2,000), and marihuana microbusinesses, which can grow and process 150 plants and sell marihuana onsite. Here are the rules:

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Application Priority

For 24 months starting on the application date (so from December 2019 until December 2021):

- Any Michigan resident can apply for a marihuana microbusiness and Class A (100 plant) grower license.
- Anybody can apply for a safety compliance facility
- Only MMFLA licensees may apply for the remaining licenses: Class B and C grows, retailers, processors and secured transporters.

Conflict

- Labs and transporters cannot own anything else
- MJ microbusiness cannot own anything else, and you can only own one
- Nobody can own more than 5 grows

Q: What is the difference between hemp and marihuana?

A: Hemp is any cannabis plant (or part of one) that has less than 0.3% THC on a dry-weight basis or per weight of an infused product.

Q: So are cbd's finally legal in Michigan?

A: Cbd's (concentrates) made from marihuana should be treated like marihuana. Concentrates made from hemp should be treated like hemp which is now a legal good in commerce. Hemp and hemp concentrates can be lawfully exported to other states. However, not all states may allow the importation of hemp products from Michigan.

Q: Can I grow and sell hemp?

A: Yes. While the state can regulate the cultivation, processing, distribution and sale of hemp, the state cannot prohibit it, and there are no licensing requirements. A municipality can zone it, but cannot ban it or require a license to grow it.

Q: Can I grow hemp in my MMFLA licensed facility?

A: No.

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Q: Can I grow hemp at home in my garden?

A: Yes.

Q: Can I sell concentrates in my MMFLA licensed facility?

A: You can sell cbd products from licensed MMFLA processors, which must be treated like medical marihuana. You can sell cbd products from industrial hemp as legal goods in commerce like any other retail good. You cannot sell marihuana-based cbd's from any non-licensed source. In other words, if it's from hemp, it can be sold but without the rolling papers. If it's from marihuana, it had better be from an MMFLA facility.

Q: Can I sell hemp-derived concentrates from home?

A: Subject to your local home-based business ordinance, yes.

Q: How will hemp be taxed?

A: At 6% like any other retail good.

Q: How will marihuana be taxed?

A: 6% sales tax and a 10% excise tax

Q: Can I smoke marihuana when I'm out?

A: You cannot smoke or consume marihuana in a vehicle, period, if it's on a public road. A public road is any road that is maintained by tax dollars. You can never smoke or consume marihuana if you are driving or in control of any vehicle, boat, plane, snowmobile, or 4-wheeler. You also cannot smoke or consume marihuana in any public place or in any private place if it's not okay with the person whose property you are on. Bars, restaurants, malls and stores are privately owned, so just because marihuana is legal, you should never assume that you can consume marihuana other than in your own home.

Q: How much marihuana can I have on me when I'm out?

A: You can possess, use and transport 2.5 ounces or less of marihuana, 15 grams of which can be concentrate.

Q: Can I be fired for using marihuana?

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A: Yes. There are no protections for marihuana use or those who use, grow, process, test or transport marihuana in this Act. An employer can fire you or refuse to hire you if you use, possess or grow marihuana, even on your own time and in your own home.

Q: Can I sell the extra marihuana I have in my house to my neighbors and friends?

A: No. You cannot sell marihuana from your home, or take donations, or accept anything at all of value in exchange for marihuana.

Q: How much marihuana can I grow and keep at my home?

A: You can grow up to 12 plants, total, in the entire residence. (This does not appear to be in addition to medical marihuana plants, as the definition of marihuana in the Act does not exclude medical marihuana under the MMFLA.) You can possess 10 ounces of marihuana and any amount you cultivated at home, which has no limit. [Note: it is possible that, read another way, this section limits possession to 10 ounces total, but it would not make sense that the drafters would allow the cultivation of 12 plants but the possession of only 10 ounces.]

Q: Do I still need my card?

A: That's up to you. If you want to be able to purchase marihuana in Michigan, being an MMMP card holder is your only option for at least the next year. You also may want to keep your card to enable you to access marihuana from other reciprocal states when you travel.

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